

January 18, 2002

TO: Recipients of Legislative Memos

FROM: David Vogler, Legal Counsel

SUBJECT: Legislative Memo #2 for the 2002 Session

The attached memo summarizes the newly introduced natural resources related legislation through Day 7 of the Legislative Session. You will probably notice that this list is not as comprehensive as in previous years. I am trying to only include those bills which have a direct effect on the Department, Commission, NRD's, etc. (that's my excuse and I'm sticking to it!). Also included are summaries of amendments to pertinent carry-over legislation from the 2001 Session. To date a total of 1,176 bills have been introduced (including the carry-over from last year). The Reference Committee has been sending bills to the standing committees and some hearing dates have been set:

LB 889	Wednesday, January 23, 2002	1:30 p.m.
LB 890	Wednesday, January 23, 2002	1:30 p.m.
LB 937	Wednesday, January 23, 2002	1:30 p.m.
LB 938	Wednesday, January 23, 2002	1:30 p.m.
LB 941	Thursday, January 31, 2002	1:30 p.m.
LB 1023	Thursday, January 24, 2002	1:30 p.m. (video in Scottsbluff and O'Neill)

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Enclosure

2002 LEGISLATIVE MEMO #2**LB 458: Relating to Water Wells (carry-over)**

The Department is attaching two amendments to this bill which is on General File. First the Department wants to eliminate the sunset date for transfers for pre-1993 Industrial Wells. Currently there is no mechanism for getting such wells legal. Second, an amendment will be attached which extends the sunset date for temporary moratoriums on drilling of water wells from 2002 to 2007.

LB 763: Water Storage and Livestock Waste Control Facilities

The Department would like to amend to clarify the difference between reservoir, dam and embankment and would like to make it clear that LWCF's which have storage appropriations are not subject to administration (i.e. would not be required to pass flow through them during times of shortage).

LB 889: Amend the Water Well Standards and Contractor's Licensing Board

LB 889 would add another member to the Water Well Standards and Contractors Licensing Board. The new member would be appointed by the Governor and would have to be a licensee under the Act and represent Natural Resources Districts. This would increase the membership of the Board from nine to ten members.

LB 890: Amend the Water Well Registration Fee Structure

This bill would allow the Department of Natural Resources to tap the Water Well Standards and Contractor's Cash Fund to cover the costs from making corrections to water well registrations, except for transfer of ownership after July 1, 2001. We are currently working with the NARD and HHS on potential amendatory language to make the bill more workable.

LB 891: Environmental Trust Administrative Structure, Board Member Duties, Grant Rating

LB 891 clarifies that the Executive Director of the Trust works at the sole discretion of the Environmental Trust Board and that the Game and Parks Commission provides administrative support. Members of the Board must comply with conflict of interest provisions of the Nebraska Political Accountability and Disclosure Act and must abstain from voting on applications which provide funding primarily to their agency. The bill also changes the grant rating system and provides that a subcommittee can be established to rate grant applications. Finally, the bill provides that an independent consultant shall conduct an evaluation of the effects of the projects funded every five years and report to the Legislature and Governor.

LB 903: Interstate Compact Sunshine Act

LB 903 would require the governing bodies of interstate compacts to which Nebraska is a party to be subject to the open access laws of the State of Nebraska. The State could not enter into any interstate compact unless the governing body of such accedes to this requirement and the State would not be allowed to participate in any existing interstate compact unless the governing body of such takes measures to comply within six months of the effective date of the act.

LB 936: Authorize Drainage Programs for NRD's, Cities, and Villages

This bill would allow cities, villages, and NRD's (in areas outside the corporate limits of the municipality) to establish stormwater management and drainage improvement programs and charge for the use of the storm sewer system. Governing entities could enter into Interlocal Cooperation Agreements to establish such systems in areas of adjacent jurisdiction.

LBs 937/938: Authorize New Uses of the Nebraska Soil and Water Conservation Fund

LB 937 would allow expenditures from the Fund for owners or operators who utilize agricultural tillage or other Best Management Practices on privately owned agricultural land. There would not need to be any physical alteration of the land or of the types of vegetation grown. LB 938 would authorize expenditures from the fund for the purpose of controlling erosion and sediment loss from land which is being converted to urban use.

LB 940: Enforcement of Water Well Registration Statutes

This bill clarifies where the duty to enforce water well registration requirements lies. If the Department should be unable to compel compliance with the requirements, then it will be the duty of the county attorney or attorney general to pursue enforcement.

LB 941: Miscellaneous Department fees

This bill would allow the Department of Natural Resources to designate, by rule and regulation, which filings with the Department must be accompanied by a ten dollar fee. The current statute simply states that any "petition, affidavit, other paper, or application for which no fee has been fixed" pay a ten dollar fee.

LB 1023: Water Policy Task Force

LB 1023 would establish a water policy task force consisting of a ground water and surface water irrigator from each of the thirteen river basins, five environmental and recreational interest members, ten at large members, five members representing NRD's, five members representing power interests, one member from each river basin representing municipalities, and any other members the Governor deems appropriate. Also on the task force is a representative from DNR, DEQ, Agriculture, HHS and Game and Parks, Attorney General, CSD and the Natural Resources Committee. The duty of the task force is to explore issues relating to surface and ground water, especially those issues related to integrated management of surface and ground water, and transfers of water and water rights. The Task Force is

given eighteen months and an appropriation of \$750,000 to complete this work and report to the Legislature and Governor.

LB 1026: Adopt the Water Rights Leasing Act

This bill would allow any appropriator to lease, for five years, and subject to the approval of the Director of Natural Resources, their water rights to any person, entity, or political subdivision. Approval by the Director would be based on the proposed use being beneficial, no harm to other water rights, that the lease is in the public interest, and no increase in consumptive use. A lease could be extended for five years. Lands from which water is transferred would not be assessed at a different value solely because of the lease or its effects.

LB 1066: Violations of Cease and Desist Orders

Changes the penalty provisions for violating a cease and desist order issued by a Natural Resources District to constitute either a Class IV misdemeanor or a civil penalty of not more than \$5,000 per day for each day of intentional violation.

**LEGISLATIVE MEMO #2
STATUS REPORT – 2002 SESSION**

NOTE: Changes from the last memo are shown in bold.

LB #	Subject	Committee/ Hearing Info.	Applicable Legis. Memo(s)	Status (e-d: te)
57	Sales tax/public records		1	G
120	Ag land values		1	C
121e	Base limitation/lid		1	C
161	Poli. Sub. Tort claims		1	G
259	Counties/Occ. Tax/vacate roads?		1	G
290	Ag land at 50%		1	C
301	Eng. & Arch. Act/triggers		1	C
355	Poli. Sub. Tort Claims/2 years		1	G
404	State Water Task Force		1	G
447	NRDs/Counties/Close Roads		1	C
458	Water Well Board Report		1,2	G
504	Approp. for NREF		1	C
568ePB	Budget date/e-filing		1	G
600PB	Ag land/net earning value		1	G
628	State 404 program		1	C
632	NGPC/# of members		1	C
634	DOA fees/NREF		1	G
635	Approp. for NREF #2		1	C
636	Nat. Heritage Plates		1	C
708	Lottery/Env. Trust 14.5%		1	C
709	NRD/Em. dom./rec. use		1	C
731	Vacancies/elected boards		1	C
758PB&A	Fertilizer fee/excess/UNL		1	G
763	Storage/dams/LWCF		1,2	G
764	Stormwater/assess areas		1	C
777	Amends to Nebr. NG-ESCA		1	G
778	NGPC/confidentiality		1	G
785	Railroad/Em. dom./DNR		1	C
791PB	Lottery/18% to funds		1	G
813e	Public facility financing		1	C
837e	DNR hearings/NRD/county		1	C
889	Well Stand./Contractor's Lic.		2	C
890	Well Regis. Fee Structure		2	C
891	ET Admin. Structure		2	C
903	Interstate Compact Sunshine Act		2	C
936	Authorize Drainage Programs		2	C
937	NE Soil & Water Cons. Fund		2	C
938	NE Soil & Water Cons. Fund		2	C

Code: * (unofficial); (e) emergency clause; (CA) constitutional amendment; (C) in committee; (G) General File; (S) Select File; (F) Final Reading; (P) Passed; (AG) Approved by Governor; (IP) Indefinitely Postponed; (V) Vetoed; (LV) Line item veto of appropriation; (LWG) Became law w/o Governor's signature; (POV) Passed over Governor's Veto; (W) Withdrawn; (PB) Priority Bill; (A) includes appropriation bill; (PR) Priority Resolution

940	Enforce. of Well Regis. Statutes	2	C
941	Misc. Department Fees	2	C
1023	Water Policy Task Force	2	C
1026	Adopt Water Rights Leasing Act	2	C
1066	Violations/Cease & Desist Orders	2	C

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